

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION**

**JOSEPH THOMAS; VERNON AYERS;  
and MELVIN LAWSON**

**PLAINTIFFS**

**v.**

**CIVIL ACTION NO. 3:18-cv-441-CWR-FKB**

**PHIL BRYANT, Governor of the State of  
Mississippi; DELBERT HOSEMANN,  
Secretary of State of the State of Mississippi;  
and JIM HOOD, Attorney General of the  
State of Mississippi, all in their official capacities  
of their own offices and in their official capacities  
as members of the State Board of Election Commissioners**

**DEFENDANTS**

**ANSWER AND DEFENSES**

Defendants Governor Phil Bryant, Secretary of State Delbert Hosemann and Attorney General Jim Hood, in their official capacities of their respective offices and in their official capacities as members of the State Board of Election Commissioners, file this their Answer and Defenses to Plaintiffs' First Amended Complaint and state:

**INTRODUCTION**

1. Defendants admit that this is an action for declaratory and injunctive relief and that Senate District 22 was utilized in the 2015 legislative election. The remaining allegations of paragraph 1 state legal conclusions to which no response is required; to the extent a response may be required, Defendants deny the allegations.

**THE PARTIES**

2. Defendants lack knowledge and information sufficient to form a belief about the truth of allegations in paragraph 2 and therefore deny the same. Defendants specifically deny that they have violated Section 2 of the Voting Rights Act.

3. Defendants lack knowledge and information sufficient to form a belief about the truth of allegations in paragraph 3 and therefore deny the same. Defendants specifically deny that they have violated Section 2 of the Voting Rights Act.

4. Defendants lack knowledge and information sufficient to form a belief about the truth of allegations in paragraph 4 and therefore deny the same. Defendants specifically deny that they have violated Section 2 of the Voting Rights Act.

5. Defendants admit Phil Bryant is Governor of the State of Mississippi and is named as a defendant in his official capacity of that office. Defendants deny the remaining allegation of paragraph 5 as stated, but admit that Defendant Bryant is vested with the chief executive power under MISS. CONST. art. 5, § 116.

6. Defendants admit Delbert Hosemann is the Secretary of State of the State of Mississippi and is named as a defendant in his official capacity of that office. Defendants deny the remaining allegations of paragraph 6 as stated but admit that Defendant Hosemann has the duties set forth for his office in Miss. Code Ann. 23-15-211.1.

7. Defendants admit Jim Hood is the Attorney General of the State of Mississippi and is named as a defendant in his official capacity of that office. Defendants deny the remaining allegations of paragraph 7 as stated but admit that Defendant Hood has the duties set forth for his office in Miss. Code Ann. § 7-5-1, *et seq.*

8. Defendants admit that they are members of the State Board of Election Commissioners by virtue of their official capacities of their respective elected offices. Defendants deny the remaining allegations of paragraph 8 as stated but admit that the duties and responsibilities of the State Board of Election Commissioners are set forth in Miss. Code Ann. 23-15-211.

### **JURISDICTION**

9. Defendants admit that this Court has subject matter jurisdiction of this action. The remaining allegations of paragraph 9 state legal conclusions to which no response is required; to the extent a response may be required, Defendants deny the allegations.

10. Defendants admit that this Court has authority to grant declaratory and injunctive relief, but deny that Plaintiffs are entitled to any such relief.

11. The allegations of paragraph 11 state legal conclusions to which no response is required; to the extent a response may be required, Defendants deny the allegations.

12. Defendants admit that venue of this action is proper in this Court. The remaining allegations of paragraph 12 are denied.

### **FACTS AND BACKGROUND**

13. The allegations of paragraph 13 state legal conclusions to which no response is required; to the extent a response may be required, Defendants deny the allegations.

14. Denied as stated, but Defendants admit that the numbers speak for themselves.

15. Denied.

16. Admitted.

17. Defendants lack knowledge and information sufficient to form a belief about the truth of allegations in paragraph 17 and therefore deny the same.

18. Defendants lack knowledge and information sufficient to form a belief about the truth of allegations in the first sentence of paragraph 18 and therefore deny the same. Defendants deny the remaining allegations of paragraph 18.

19. Admitted.

20. The allegations of paragraph 20 state legal conclusions to which no response is required; to the extent a response may be required, Defendants deny the allegations.

21. The allegations of paragraph 21 state legal conclusions to which no response is required; to the extent a response may be required, Defendants deny the allegations.

22. Defendants admit the first two sentences of paragraph 22. The current redistricting plan for State Senate elections speaks for itself and requires no admission or denial.

23. Defendants admit that Eugene Clark is a white Republican who has been elected to the Mississippi State Senate numerous times from District 22. Defendants deny all remaining allegations in paragraph 23.

24. The numerical election results of paragraph 24 speak for themselves and require no admission or denial.

25. The numerical election results of paragraph 25 speak for themselves and require no admission or denial.

26. The numerical election results of paragraph 26 speak for themselves and require no admission or denial.

27. The numerical election results of paragraph 27 speak for themselves and require no admission or denial.

28. Defendants lack knowledge and information sufficient to form a belief about the truth of allegations of paragraph 28 and therefore deny the same.

29. Denied.

30. The allegations of paragraph 30 state legal conclusions to which no response is required; to the extent a response may be required, Defendants deny the allegations. Defendants specifically deny that they have violated Section 2 of the Voting Rights Act.

31. Defendants deny the allegations in paragraph 31 as stated. Defendants admit that federal courts have addressed voting rights issues in the specific facts of the cases cited in paragraph 31.

32. Defendants admit that elections for most state and local offices are held in odd-numbered non-presidential election years, but lack knowledge and information sufficient to form a belief about the truth of the remaining allegations of paragraph 32 and therefore deny the same.

33. Defendants deny the allegations as stated in paragraph 33.

34. Statewide election results for the 20<sup>th</sup> Century are publically available and speak for themselves. As to the remaining allegations of paragraph 34, the numbers speak for themselves.

### **VIOLATION**

35. Defendants incorporate their answers to the allegations contained in the foregoing paragraphs of Plaintiffs' Complaint.

36. Denied.

37. Denied.

38. Defendants admit that an election has been held under the current Mississippi State Senate Redistricting Plan adopted by the Mississippi Legislature in 2012 and that another election is scheduled to be held under this plan in 2019. Defendants deny all remaining allegations of paragraph 38.

**PRAYER FOR RELIEF**

Defendants deny all allegations contained in the unnumbered paragraph starting on page 9 of the amended complaint and beginning with “WHEREFORE,” and specifically including paragraphs designated a. – f. Defendants further specifically deny that Plaintiffs are entitled to any relief whatsoever.

**FIRST AFFIRMATIVE DEFENSE**

Plaintiffs’ claims are barred in whole or in part by laches, equitable estoppel and/or waiver.

**SECOND AFFIRMATIVE DEFENSE**

Plaintiffs’ claims are barred by the applicable statutes of limitations, including 28 U.S.C. § 1658 and Miss. Code Ann. § 15-1-49, and the applicable common law.

**THIRD AFFIRMATIVE DEFENSE**

These Defendants have no role in the redistricting process nor do they participate in approving any redistricting plan for the Mississippi State Senate and are, therefore, improper parties who should be dismissed.

**FOURTH AFFIRMATIVE DEFENSE**

The Court cannot accord the complete relief requested by Plaintiffs among the existing parties without the joinder of necessary and indispensable parties in interest.

**FIFTH AFFIRMATIVE DEFENSE**

Defendants are not responsible for any fees or costs.

**SIXTH AFFIRMATIVE DEFENSE**

Plaintiffs’ claims are barred by res judicata and/or collateral estoppel.

WHEREFORE, PREMISES CONSIDERED, Defendants respectfully request that this Court deny Plaintiffs' claims and any relief whatsoever and dismiss this civil action with prejudice.

RESPECTFULLYSUBMITTED, this the 8th day of August, 2018.

Respectfully submitted,

Governor Phil Bryant, Secretary of State Delbert Hosemann, and Attorney General Jim Hood in their official capacities of their respective offices and in their official capacities as members of the State Board of Election Commissioners

BY: /s/ Tommie S. Cardin

TOMMIE S. CARDIN (MB # 5863)

CHARLES E. GRIFFIN (MB #5015)

BENJAMIN M. WATSON (MB # 100078)

B. PARKER BERRY (MB # 104251)

ITS ATTORNEYS

OF COUNSEL:

BUTLER SNOW LLP  
Suite 1400  
1020 Highland Colony Park  
Ridgeland, MS 39157  
Post Office Box 6010  
Ridgeland, MS 39158-6010  
Tel: (601) 985-4570  
Fax: (601) 985-4500  
E-mail: tommie.cardin@butlersnow.com  
E-mail: charles.griffin@butlersnow.com  
E-mail: ben.watson@butlersnow.com  
E-mail: parker.berry@butlersnow.com

**CERTIFICATE OF SERVICE**

I, Tommie S. Cardin, hereby certify that on this day I caused the foregoing to be electronically filed with the Clerk of the Court using the ECF system which sent notification of such filing to all counsel of record.

SO CERTIFIED this, the 8th day of August, 2018.

/s/ Tommie S. Cardin

TOMMIE S. CARDIN